# OTHER FACETS

NEWS AND VIEWS ON THE INTERNATIONAL EFFORT TO END CONFLICT DIAMONDS

Number 12 December 2003

# **SUN CITY PROGRESS**

## **Kimberley Process Starts to Grow Teeth**

Several important changes were made to the Kimberley Process Certification Scheme (KPCS) at the plenary meeting held in Sun City, South Africa, between October 29<sup>th</sup> and 31<sup>st</sup>. The most critical was forward movement on the issue of monitoring. The original KPCS document sanctioned monitoring visits only in cases of "significant indications of non-compliance" with agreed standards. NGOs had long argued that such an approach made the KPCS, in effect, toothless, a position supported by the influential US General Accounting Office, a congressional watchdog body.

NGOs had long argued for regular independent monitoring of all national control mechanisms, while those governments that did favour a regular approach, spoke of a "peer review mechanism". A special review mission to the Central African Republic, undertaken in June 2003 following a coup in the country, included three government representatives and one each from industry and NGOs. The process and the results were satisfactory to all, including the government of the Central African Republic, which viewed the exercise in retrospect as a kind of capacity building exercise. In October, shortly before the Sun City meeting, NGOs, the World Diamond Council and the Government of Israel proposed an approach to monitoring which would cover all members of the KPCS within three years, but which would send missions only to those countries that volunteered for a mission. The objective was to demonstrate that regular monitoring should not be confrontational, and that problem countries could still be handled under the "significant indications of non-compliance" clause.

A version of this agreement was accepted at the Sun City plenary, with several countries 'volunteering' spontaneously: the Democratic Republic of the Congo, the Republic of Congo, Lebanon and Mauritius. Others are expected to step forward in the weeks ahead. While not the compulsory system favoured by NGOs, the new approach is expected to build confidence in the basic concept of monitoring, and all governments will be expected to indicate whether or not they will invite a review mission over the next two years. Those that do not volunteer will undoubtedly attract attention.

During the Sun City meeting, several new participants were admitted to the KPCS: Brazil, Romania, Togo and Lebanon, bringing the total to 45 states and the European Community. A further 20 countries have indicated an interest in joining the KPCS when they have their legislation and regulations in place.

South Africa has acted as Chair of the Kimberley Process since the first meeting, held in Kimberley South Africa in May 2000. From January 1, 2004, the Chair will be Canada, with Russia acting as Vice Chair.

#### **Problematic Statistics**

The reporting of statistics remains a problem for the KPCS. Without regular, accurate and comparative trade and production statistics, the certification scheme will be unable to spot the anomalies that have allowed conflict diamonds to flourish over the past decade. It was agreed that the provision of statistics is a basic matter of compliance within the system, and several governments were publicly embarrassed by their late and incomplete submissions. It is expected that delays will be reduced in the coming months, although this remains a sensitive issue. Additional problems relate to differing interpretations of World Customs Organization's harmonized codes, and different values placed on the same shipment of diamonds by exporters and importers.

#### OTHER FACETS

Other Facets, a periodic newsletter about the international effort to end diamond-related conflict, is a publication of the Diamonds and Human Security Project of Partnership Africa Canada (Ottawa). Views expressed in Other Facets are those of the authors and editorial staff alone.

Supporters include: the Program on Global Security and Sustainability of the John D. and Catherine T. MacArthur Foundation, the Canadian International Development Agency, the British Department for International Development, the Canadian Catholic Organization for Development and Peace, the International Development Research Centre, the Canadian Department for Foreign Affairs and International Trade, Development Cooperation Ireland, the Canadian Autoworkers Social Justice Fund, World Vision Canada and others.

For more information: Partnership Africa Canada, 323 Chapel St., Ottawa, Ontario, K1N 7Z2, Canada; info@pacweb.org www.pacweb.org ISSN: 1496-7480

### ICC TARGETS BLOOD DIAMONDS

The International Criminal Court (ICC) has announced that it will investigate companies suspected of dealing in conflict diamonds originating in the Democratic Republic of the Congo (DRC). Chief Prosecutor Luis Moreno Ocampo said that investigations may extend to as many as 29 countries. "If we are not stopping the money flow, killing will not stop in Ituri," Ocampo said, referring to the region in northeast DRC where an estimated 50,000 people have died since 1999. Speaking of foreign companies that bought conflict diamonds, Ocampo said, "If they received diamonds and knew that the people delivering them were getting them because of genocide, they could well be part of the crime." In all, more than three million people have died directly or indirectly as a result of the war that has wracked the DRC since the mid 1990s. The International Criminal Court (ICC) was established in 1998 and became operational in July 2002. It is the first ever permanent, treaty based, international criminal court established to promote the rule of law and ensure that the gravest international crimes do not go unpunished.

Number 12 Page 2 December 2003

#### MediaWatch

The September 2003 issue of *The Ecologist* ran a cover story on the Kalahari Bushmen and their eviction from the Central Kalahari Game Reserve by the Government of Botswana. The government claims that the game reserve was set up for conservation purposes and that the Bushmen – more appropriately known as the Basarwa – threaten the game. The government says that providing services to the Basarwa is too expensive and that they should live 'where the services are'. Today only a few families are left in the area, compared with an estimated 2000 several years ago. An international NGO, Survival International, has been fighting the eviction for several years, claiming that the land is being cleared in order to permit diamond mining. The Ecologist printed maps showing that new diamond exploration concessions, comprising a large part of the game reserve, have been sold by the government to BHP Billiton World Exploration Inc., De Beers Prospecting Botswana and a Canadian company, Motapa Diamonds Inc., since the eviction of the Basarwa in 2002. The stories on the Basarwa were accompanied by a six-page article on diamonds and De Beers, by Janine Roberts, author of Glitter & Greed: The Secret World of the Diamond Cartel. De Beers is singled out for special attack, although BHP Billiton, which has much larger concessions in the reserve, is barely mentioned. The cover of *The Ecologist* for September features the headline "Dying for De Beers", with a large diamond dripping in blood. This is a reference, perhaps, to the campaign on conflict diamonds, although this issue is only mentioned in passing. Lawyers for De Beers and Survival International have exchanged letters.

A few misspoken words by Northwest Territories Premier Stephen Kakfwi following a speech in New York in September resulted in a minor media flurry about "alleged dirty diamond trade". Kakfwi accused De Beers of doing business with guerrilla movements. The Globe and Mail reported on the controversial comments, quoting Bernard Taylor of PAC who said that De Beers had stopped buying diamonds on the global marketplace more than three years ago. Kakfwi's retraction and apology to De Beers was covered in the Globe three days later. But local media in the NWT had picked up on the story and while recognizing that De Beers had changed its buying methods, were intent on delving into past practices. The interest in De Beers' buying practices coincided with negotiations between the government of the NWT and De Beers over the Snap Lake diamond mine. The issue of having the diamonds cut and polished in the NWT, rather than shipping the raw gems overseas to be finished was a sticking point in the negotiations. De Beers has since received government agreement for the mine to proceed.

The Associated Press reported in November that Abdel Qadir Mamour, a Senegalese Muslim cleric deported from Italy had told the London-based Asharq Al-Awsat newspaper that he had had meetings with Osama bin Laden in Sudan during 1993-1996 and that bin Laden had provided money to finance his diamond trade between Africa and Belgium.

On December 4, The Guardian revealed that a confidential UN report has accused Rwanda, Uganda and elements within the new transitional government in Congo of continuing to arm militias to keep control of Congo's rich diamond and gold fields. document, part of a longer report (see article on page 3), was sent privately to the UNSG because of its "highly sensitive information."

# CHARLES TAYLOR CONTINUES TO **EVADE JUSTICE**

**Interpol Issues "Red Notice"** 

Disgraced former Liberian President, Charles Taylor, continues to live in luxury with dozens of family members and cronies while Liberians begin to pick up the pieces after nearly 15 years of war. Taylor, who started the fighting in 1989 and became President in 1997, was forced to resign in August 2003 through a combination of international diplomatic pressure and the imminent destruction of Monrovia by rebel forces that had surrounded the capital city. Part of the peace arrangement brokered by Nigeria was an offer of sanctuary from an indictment issued against Taylor by the Special Court in Sierra Leone. Through most of the 1990s, Taylor supported Sierra Leone's Revolutionary United Front, which waged a war of terror against civilians, leaving tens of thousands dead and thousands more maimed for life. United Nations Expert Panels reported that Taylor provided the RUF with weapons in return for diamonds, breaking several UN sanctions and spreading the war beyond Sierra Leone into Guinea and Côte d'Ivoire. Nigeria, which is a member of the Management Committee of the Special Court, has come under increasing pressure to surrender Taylor. The Court's Prosecutor, David Crane, said in October that the current UN peacekeeping mission in Liberia, which will soon be the largest in the world, "will ultimately fail if Charles Taylor does not face justice." Taylor faces 17 counts of war crimes and crimes against humanity. "Taylor simply will not stop until he is turned over," said Crane.

Meanwhile, in November, US President George Bush signed into law a bill approving an \$87 billion aid package for Iraq and Afghanistan, which included a reward for "an indictee of the Special Court for Sierra Leone". Nigeria reacted strongly, saying that the offer, assumed to target Charles Taylor, verged on state-sponsored terrorism. US State Department spokesperson, Susan Pittman, denied the charge. "We strongly oppose any violent or other illegal actions against Nigerian authorities aimed at obtaining custody of Charles Taylor," she said. "Apprehension of indictees should be conducted by appropriate authorities."

Websites and chatrooms frequented by mercenaries and private military companies have featured extensive discussions of the reward, which pales beside the \$30 million payout authorized by Secretary of State Colin Powell in July that led to the deaths of Uday and Qusay Hussein in Iraq. A \$25 million bounty remains outstanding for Saddam Hussein.

On November 25, Nigerian President Obasanjo softened his position on Charles Taylor, saying he would hand Taylor over to face war crimes charges if the current interim government of Liberia made the request.

On December 4, at the request of the Special Court for Sierra Leone, Interpol issued a Red Notice for Taylor, in accordance with a cooperation agreement between Interpol and the Court. A "red notice" is not an arrest warrant but national police can use it to make a provisional arrest. It was posted on Interpol's website with a photo of Mr. Taylor in suit and a warning that he "may be dangerous".

Number 12 Page 3 December 2003

## CONGO PANEL: FINAL REPORT

#### **Questions Remain**

At the end of October, the UN Expert Panel on the Democratic Republic of the Congo made its final report to UN Secretary General Kofi Annan. The report devoted almost half of its text to explaining what it had done as follow-up in dealing with the many companies named in its previous report. Some had been accused of breaking sanctions, while others had been charged with breaking guidelines established by the Organization for Economic Cooperation and Development (OECD) on the behaviour role of multinational companies. A large and negative reaction followed the publication of that report, in part because many of the companies named had not been accused of anything specific. The same is true of the new report. While Anglo American, Barclays Bank and others now find themselves shifted off the list of OECD guideline-breakers – with no explanation – De Beers and a host of small companies are on a new list: "Unresolved Cases Referred to NCP for Updating or Investigation". "NCP" refers to the national contact points responsible for the implementation of OECD Guidelines for Multinational Enterprises in member countries. There are no details in the narrative of the report about what is to be investigated.

The report states that the illegal exploitation of diamonds and gold "remains one of the main sources of funding for groups involved in perpetuating conflict, especially in the eastern and northeastern regions of the DRC," and that illegal arms imports are continuing. It recommends the breakup of large state-owned mineral resource enterprises such as Gecamines and MIBA, "grossly inefficient vehicles by which the wealth generated from Congolese resources has been channelled away from its rightful owner, the Congolese people." The report also calls for implementation of the NGO-led "publish what you pay" initiative in the DRC, including full public disclosure by natural resource companies, both domestic and foreign, of all payment made to government. It also calls for disclosure on the part of government (central as well as provincial/district) - of revenues it receives from companies and how the receipts have been used. The report is available at:

http://www.un.org/Docs/journal/asp/ws.asp?m=S/2 003/1027

### **BOOKS**

Madelaine Drohan, *Making a Killing: How and Why Corporations Use Armed Force to Do Business*, Random House Canada, 2003, 376 pages, Can.\$37.95

From the colonial era, through the independence period up to the present day, companies have benefited from the aggressive use of armed force to expand and protect their commercial enterprises across the African continent – and in many instances, the enterprises they were protecting were resource extraction initiatives. *Making a Killing* is the story of colonial adventurers, Cold War spymasters, contemporary mercenaries and complicit corporate executives who, through direct support to armed groups or through special arrangement with national armies or police forces, have ensured that corporate interests are met. From Cecil Rhodes in Southern Africa, to the Union Minière in Katanga to Rakesh Saxena in Sierra Leone, Drohan recounts the intrigues, machinations, and legal and semi-legal deals between corporate representatives, governments and financiers who decide that "the use of armed force is just business by some other means". She also describes the work of civil society organizations in exposing the misconduct of corporate enterprises and advocating for new global rules.

Drohan's interest in companies that combine their search for profit with some form of armed force began with her investigations into the rumoured links between DiamondWorks, a nominally Canadian company, and a group of mercenaries out of South Africa known as Executive Outcomes. That research is the basis for one chapter of the book. Parts of that story are also included in PAC's 2000 report *The Heart of the Matter: Sierra Leone, Diamonds and Human Security.* PAC concluded: "While it may be legitimate to expect mining companies to provide *security* at their sites, it is not reasonable to expect them to do more. Nor should they offer to do so."

Making a Killing is fascinating reading – and makes the point that fact is stranger (and darker and more sinister) than fiction. In many parts, it reads like an adventure novel – with vivid descriptions of visits to mining sites and of meetings with government officials or corporate financiers eager to invest in dubious undertakings. Unfortunately, it's not a novel where the good guy wins in the end. Lives are lost, governments are overturned, economies are shattered because of the unscrupulous actions of some corporate citizens. The title of the final chapter is telling: "Perfectly legal, perfectly immoral".

S.I.

Jeffrey Lee, Dog Days, Bantam, London, 2002, £6.99

The cover of Dog Days features a blurb from the Independent on Sunday: "Sometimes a fictional work can reveal the truth. Dog Days is one such..." What truth it reveals, however, is not explained. Dog Days is about a journalist's search for the murderer of an NGO worker in a fictional war-torn country called "Upper Guinea" and its capital "Freeville", where people drink "Bright Star" beer and foreigners hang out at the "Cape Atlantic" hotel. No prize for guessing where this is. The author, a South African-born journalist, has some trenchant things to say about his professional counterparts: "These inspired invaders had not the slightest interest in where they were. Some of them did not even know. The only wars they were interested in were ratings wars." Too bad, then, that Lee did not disguise his own locations better, because he too seems to have little interest in what is going on where he is. The Africans he describes are either clowns ("Krios in top hats") or butchers, and while there are diamonds aplenty, there is absolutely no explanation for the war he describes, apart from a general ambience of murder and chaos, said to have been sparked by a military attack carried out by Lebanese diamond dealers on a tribe called the Moro - "for some obscure reason". Don't buy this book.

Number 12 Page 4 December 2003

## LIBERIA UN PANEL REPORTS

#### Recommends Continuing Diamond Embargo

The UN Security Council Expert Panel on Liberia reported to Secretary General Kofi Annan at the end of October. During its mandate several major changes had taken place in Liberia, including the departure of President Charles Taylor and his government, and the arrival of the West African peacekeeping force, ECOMIL.

The report describes Charles Taylor's last desperate attempt to import weapons, in defiance of the UN arms embargo. On the night of August 6, less than a week before Taylor was forced from office, a Boeing 707 arrived at Roberts Field from Syrte in Libya, carrying between 20 and 40 tons of weapons originating in Serbia. Defense Minister Daniel Chea went to the airport to receive the weapons, but was prevented from taking possession by ECOMIL troops.

The report states that Liberian diamonds continue to flow into the international market, regardless of the UN embargo, and despite the operation of the Kimberley Process Certification Scheme (KPCS) in neighbouring countries. Most of the diamonds, the report says, find their way to Freetown or Conakry, or go straight from Liberia to markets in Europe. The report estimates the diamond potential of lower and upper Lofa counties at a surprising US\$10 million per month. This would put annual production capacity, using only basic digging methods, at more than \$100 million per annum, a figure at least ten times what is typically quoted as Liberia's full diamond potential, and significantly more than what is currently being exported from Sierra Leone.

The Panel report recommends that the UN Security Council embargo on diamonds be retained until a closely monitored, internationally accredited certification system can be effectively implemented under international supervision. The report is available at: <a href="http://www.un.org/Docs/sc/committees/Liberia2/LiberiaSelEng.htm">http://www.un.org/Docs/sc/committees/Liberia2/LiberiaSelEng.htm</a>

# RUSSIAN DIAMOND CRACKDOWN?

Two major arrests in October suggest that the Russian government may be getting tougher on diamond smuggling, and is now starting to enforce laws which had previously been ignored. Avraham 'Bumi' Traub, Vice President of the Israel Diamond Exchange, was arrested in Hungary by Interpol on a warrant issued at the request of the Russian authorities. Traub, who holds Israeli and Russian citizenship, was suspected of smuggling diamonds out of according to Russia. Hungarian authorities. In a separate incident, a Ukrainian citizen was arrested in Bryansk, near the Russian-Ukrainian border, with seven kilograms of diamonds, said to be worth US\$3.8 million. For years, Russian diamonds have been 'submarined' out of the despite country. contracts which effectively limit exports to De Beers and Israeli diamond mogul Lev Leviev. Some Israeli diamond dealers, however, have long been able to obtain unofficial parcels through personal connections with Russian government officials and business contacts. Such diamonds have frequently been passed off as African diamonds before they make their way into the legitimate trade. Russia produces an estimated US\$1.5 billion worth of rough diamonds each year. The precise amount is not known, however, because diamond statistics are protected under Russian law as a state secret.

## TCNs IN CONFLICT-PRONE ZONES

The Kimberley Process Certification Scheme is given as one example of a regulatory instrument to influence TNC (Transnational Corporation) activity in conflict zones in a new report by International Alert. Transnational Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action recognizes that private sector activity – both licit and illicit trade and business – is a significant factor influencing the shape and intensity of many conflicts. The report looks at the "business case" and the public policy

imperatives for minimizing negative impacts of companies operating in conflict-prone zones and maximizing companies' contribution to peacebuilding. The report advances the debate on corporate social responsibility, identifying a role for TNCs, multilateral organizations and governments in promoting conflict-sensitive business in conflict-prone countries. The report is available at: <a href="http://www.international-alert.org/publications.htm#business">http://www.international-alert.org/publications.htm#business</a>

# CLINTON ANTWERP SPEECH

#### **Awkward Reminders**

Former U.S. President Bill Clinton was the keynote speaker at the November Antwerp diamond conference gala dinner, organized by Belgium's Diamond High Council. In contrast with Al Gore's speech at the same gathering in 2002, Mr. Clinton pulled few punches, speaking directly about the problems of conflict diamonds.

'We now know that diamonds have been used by terrorists to finance their operations and to evade targeted financial sanctions in relation to money laundering,' he said. The underlying theme of his speech was about taking responsibility for one's actions and coming together in the ever-changing political world. Clinton referred several times to the devastation caused by conflict and illicit diamonds. He spoke of the need for action in the Democratic Republic of the Congo and he praised the work of the NGOs that had brought the issue of conflict diamonds to light. He also congratulated the industry on coming together and uniting with governments and civil society to launch the Kimberley Process. The former president may have known that he was talking to people seated at tables sponsored by diamond companies named in United Nations reports for trading in conflict and illicit diamonds.

Despite Clinton's references to conflict diamonds and the Kimberley Process, the conference focused mainly on the branding and marketing of diamonds.